

Plaintiff's Name Terrence Jesse MooreInmate No. BB401SAddress CSP-CORCORANP.O. Box 8800CORCORAN, CA 93212**FILED**

AUG 20 2020

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIABY SP/18
PROXY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

Terrence Jesse Moore (preferred pronouns: Her, She) 1:20-cv-00397-BAM
 (Name of Plaintiff) (Case Number)

vs.

1ST

AMENDED CIVIL RIGHTS COMPLAINT UNDER:

 42 U.S.C. 1983 (State Prisoner) Bivens Action [403 U.S. 388 (1971)] (Federal Prisoner)

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on additional page):

A. Have you brought any other lawsuits while a prisoner? Yes ✓ No B. If your answer to A is yes, how many? 1

Describe previous or pending lawsuits in the space below. (If more than one, attach additional page to continue outlining all lawsuits in same format.)

1. Parties to this previous lawsuit:

Plaintiff Terrence Jesse MooreDefendants Heather Diaz

2. Court (if Federal Court, give name of District; if State Court, give name of County)

Eastern District of California3. Docket Number 1:20-cv-00397-BAM Assigned Judge Anthony W. Ishii

5. Disposition (Was the case dismissed? Appealed? Is it still pending?)

Pending

II. Exhaustion of Administrative Remedies

NOTICE: Pursuant to the Prison Litigation Reform Act of 1995, “[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Prior to filing suit, inmates are required to exhaust the available administrative remedy process, *Jones v. Bock*, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1199 (9th Cir. 2002), and neither futility nor the unavailability of money damages will excuse the failure to exhaust, *Porter v. Nussle*, 534 U.S. 516, 524, 122 S.Ct. 983, 988 (2002). If the court determines that an inmate failed to exhaust prior to filing suit, the unexhausted claims will be dismissed, without prejudice. *Jones*, 549 U.S. at 223-24, 127 S.Ct. at 925-26.

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes No _____

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes No _____

C. Is the process completed?

Yes If your answer is yes, briefly explain what happened at each level.

I was a PPEA 607 so it went straight to 2nd level. 2nd level denied my action requested so I contacted 3rd level and my 3rd level response was also a denial.

No _____ If your answer is no, explain why not.

III. Defendants

List each defendant's full name, official position, and place of employment and address in the spaces below. If you need additional space please provide the same information for any additional defendants on separate sheet of paper.

A. Name S. Calderon is employed as Correctional officer

Current Address/Place of Employment Kern Valley State Prison, Delano, CA 93216

B. Name _____ is employed as _____

Current Address/Place of Employment _____

C. Name _____ is employed as _____

Current Address/Place of Employment _____

D. Name _____ is employed as _____

Current Address/Place of Employment _____

E. Name _____ is employed as _____

Current Address/Place of Employment _____

IV. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary. Must be in same format outlined below.)

Claim 1: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

Freedom from cruel and unusual punishment.

Supporting Facts (Include all facts you consider important to Claim 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 1.):

S. Calderon Knew that I was a transgender inmate and that I do not have to show my breasts. When he told me, "I know you're transgender! I don't think you get it, I'll screw you over if you don't do what I say and you won't be getting out of prison anytime soon. Now show me your tits since you think you're a woman.", he violated my right. There was no penological legitimate justification or goal for that and the statement was so extreme, even for a prison setting and was calculated to and did cause me severe psychological harm. We were on

lockdown so there was no movement except one cell at a time. I came out to shower while no other staff or inmates were around so I posed no threat to anyone. I was completely alone. S. Calderon was not attempting to maintain any form of security, enforce any rule or do anything that had to do with his job. Nor was he trying to prevent any breach of security. S. Calderon's ~~action~~ on me was not to advance a legitimate correctional goal and there was no penological interest in making me take my ~~shirt~~ shirt off. S. Calderon threatened to retaliate against me to prevent me from writing a grievance and to make my life hell for going through with the complaint. This took place on June 14th, 2019. My complaint was denied the action requested at every level, exhausting my remedies and leaving no option, but to go to court.

Claim 2: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

First amendment right to free speech and protected conduct / retaliation

Supporting Facts (Include all facts you consider important to Claim 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 2.):

After telling S. Calderon I would be filing a grievance against him for his misconduct he replied, "I'll bet you won't. You faggots think you have so many rights. ~~Since~~ you're writing a grievance on me you'll regret it because now I'm writing a 1K on you." I asked for what and he said, "Two can play that game. I'm about to make your time in Kern Valley hell now. You're going to wish you were dead!" S. Calderon followed through with his threat of retaliation against me for my staff complaint. He abused his power as a C.O. to sexually harass me and retaliate against me and to make my life miserable to the point that I would want to be dead. I suffered mental stress and attempted to take my own life 2 time from the effect of S. Calderon's actions. His actions violated my rights. Once informed of S. Calderon writing me up falsely I backed out of filing the complaint for fear of further retaliation. While

on suicide watch a few weeks later I confided in a nurse and I worked up the courage to file the complaint. Since I was not around S. Calderon I felt safe from any more of his sexual harassment and retaliation. I suffered tremendous amounts of damage from S. Calderon's actions including loss of job, loss of time on my release date, suicide attempts, loss of property and more.

I am a transgender woman and my preferred pronouns are She/Her. Thank you

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I am suing defendant in his individual capacity for monetary relief in the sum of \$10,000 dollars for loss of property, time, job, mental suffering and pain and stress

I declare under penalty of perjury that the foregoing is true and correct.

Date: 8-16-2020

Signature of Plaintiff: Terrence Jesse Moore

(Revised 4/4/14)